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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**I.T.R No.11 of 1996**
**Date of decision:22.11.2006**

**The Commissioner of Income Tax(Central), Ludhiana**

**...Petitioner**

**Versus**

**M/S Oswal Woollen Mills Ltd., Ludhiana**

**...Respondent**

**CORAM: HON'BLE MR.JUSTICE ADARSH KUMAR GOEL**
**HON'BLE MR.JUSTICE RAJESH BINDAL**

Present: Mr.S.KGarg, Advocate for the revenue.
Mr.Sanjay Bansal, Advocate for the assessee.

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**JUDGMENT**

Following question of law has been referred for opinion of this Court by the Income Tax Appellate Tribunal, Chandigarh Bench Chandigarh arising out of its order dated 22.11.1995 passed in I.T.A.No.1149/Chandi/90, in respect of the assessment year 1987-88:-

> "Whether, on the facts and in the circumstance of the case, the Appellate Tribunal was right in law in allowing the assessee's claim for leave with wages, ignoring the fact that this was not an ascertained liability but a contingent liability and hence not allowable under the law?"

Learned counsel for the assessee points out that in case of the assessee for the assessment years 1983-84, 1984-85 and 1986-87, the same question has been decided by this Court vide orders dated 26.4.2006 in ITR Nos.192 to 194 of 1995 and ITR No.409 of 1995.

In ITR Nos.192 to 194 of 1995 (Commissioner of Income-tax (Central) Ludhiana Vs. M/S Oswal Woollen Mills Ltd., G.T.Road, Sherpur, Ludhiana) dealing with the question, this Court

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observed:-

> "Learned counsel for the assessee points out that first question in respect of assessment year 1983-84 (ITA No.1226/Chandi/87) as well as in respect of assessment year 1984-85 (ITA No.133/Chandi/88) stands covered by judgment of Hon'ble the Supreme Court in **Bharat Earth Movers V. Commissioner of Income-tax,** (2000) 245 ITR 428, which was followed even in assessee's own case in **Commissioner of Income-tax V. Oswal Woollen Mills Ltd.,** (2002) 254 ITR 666. No contrary view has been shown on behalf of the Revenue. Accordingly, following the said judgment, we answer this question in favour of the assessee and against the revenue."

Learned counsel for the revenue has not been able to dispute the above statement. Accordingly, following orders of this Court in case of the assessee for the earlier years, the question referred is answered against the revenue and in favour of the asseseee.

The reference is disposed of.

**(Adarsh Kumar Goel)**
**Judge**

**November 22,2006** **(Rajesh Bindal)**
**Pka** **Judge**